

Louis Benowitz (SBN 262300)
louis@benowitzlaw.com
BENOWITZ LAW CORPORATION
8605 Santa Monica Boulevard
PMB 79183
West Hollywood, California 90069
Telephone: (818) 839-9610

Attorneys for Plaintiff
HASSNAA OUHAJ

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MAR 06 2023


BY: Regine M-Mamudu, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

HASSNAA OUHAJ, on behalf of herself and
all others similarly situated,

Plaintiff,

vs.

BRILLIANT CORPORATION, a Virginia
corporation; and DOES 1-50, inclusive,

Defendants.

Case No. **CIV SB 2305930**

**CLASS AND REPRESENTATIVE
PRIVATE ATTORNEY GENERAL
ACTION**

COMPLAINT FOR:

1. Failure to Indemnify (Lab. Code § 2802); and
2. Civil Penalties (Lab. Code § 2698 *et seq.*).

JURY TRIAL DEMANDED



1 Plaintiff HASSNAA OUHAJ (hereafter, "Plaintiff"), on behalf of herself and all others
2 similarly situated, and as an aggrieved employee under the Labor Code Private Attorneys General
3 Act of 2004, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This is a class and representative private attorney general action against
6 Defendants Brilliant Corporation and Does 1–50, inclusive (collectively, "Defendants") for
7 violations of Labor Code § 2802. As set forth below, Defendants have, as matters of policy and/or
8 practice, failed to indemnify their remote and/or work-from-home employees in California for the
9 expenses they have incurred from working from home including, but not limited to, electricity,
10 Internet connection, and telephone expenses they incurred in direct consequence of discharging
11 their duties. Accordingly, Plaintiff seeks to recover said expenses on behalf of herself and all
12 others similarly situated, as well as civil penalties on behalf of herself and other aggrieved
13 employees under the Labor Code Private Attorneys General Act of 2004.

14 **JURISDICTION AND VENUE**

15 2. This Court has subject matter jurisdiction to hear this case in that the amount in
16 controversy in this case, exclusive of costs and attorneys' fees, exceeds \$25,000.

17 3. Venue is proper in the County of San Bernardino under Code of Civil Procedure
18 §§ 395(a) and 395.5 because the events giving rise to liability in this action arose in the County of
19 Los Angeles in that at least some of the transactions that are the subject matter of this Complaint
20 occurred therein and/or because each defendant either is found, maintains offices, transacts
21 business, and/or has an agent therein.

22 **THE PARTIES**

23 4. Plaintiff incorporates each of the preceding paragraphs of this Complaint by
24 reference as if fully set forth herein.

25 5. Plaintiff Hassnaa Ouhaj is an individual who, at relevant times, was employed by
26 Defendants in the County of San Bernardino, California in a remote position during the period
27 from approximately August 2020 to approximately January 2022.

28 ///

1 6. Plaintiff is informed and believes and thereon alleges that Defendant Brilliant
2 Corporation is a corporation organized under Virginia law that employs persons and does business
3 throughout the State of California, including in San Bernardino County.

4 7. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
5 participation in the conduct alleged herein, of the defendants sued as Does 1–50, inclusive, but is
6 informed and believes and thereon alleges that said defendants are legally responsible for the
7 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.

8 8. Plaintiff will amend this Complaint to allege the true names and capacities of the
9 Doe defendants when ascertained.

10 9. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
11 each of the Defendants has been a “person” within the meaning of Labor Code § 18.

12 10. Plaintiff is informed and believes that each of the Defendants is either an
13 “employer” or a “person acting on behalf of an employer” within the meaning of Labor Code
14 § 558.1 so as to render each of the Defendants liable for violations of Labor Code § 2802.

15 11. Plaintiff is informed and believes and thereon alleges that each of the Defendants
16 has acted in all respects pertinent to this action as the agent or employee of the other Defendants,
17 carried out a joint scheme, business plan, or policy in all respects hereto, and therefore the acts of
18 each of the Defendants are legally attributable to the other Defendants.

19 12. Plaintiff is informed and believes and thereon alleges that, at all relevant times
20 herein, except as otherwise indicated, Defendants have been the agents, employees and/or
21 servants, masters or employers of the remaining Defendants, and in doing the things hereinafter
22 alleged, have been acting within the course and scope of such agency or employment, and with
23 the approval and ratification of each of the other Defendants.

24 13. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
25 and except as otherwise indicated, each and every one of the acts and omissions alleged herein
26 were performed by, and/or attributable to, all Defendants, each acting as agents and/or employees,
27 and/or under the direction and control of each of the other Defendants, and that said acts and
28 failures to act have been within the course and scope of said agency, employment, and/or direction

1 and control.

2 14. Plaintiff is informed and believes and thereon alleges that, at all relevant times, in
3 perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant
4 to and in furtherance of policies and practices that constitute unfair competition in violation of
5 the Business and Professions Code and violate the requirements of the Labor Code and the Wage
6 Order.

7 **CLASS ACTION ALLEGATIONS**

8 15. Plaintiff incorporates each of the preceding paragraphs of this Complaint by
9 reference as if fully set forth herein.

10 16. Plaintiff brings this action on behalf of herself and the following class pursuant to
11 Code of Civil Procedure § 382:

12 A. **Plaintiff Class:** All employees of Defendants who worked in remote or
13 work-from-home positions in California during the period beginning three
14 years before the filing of this action and ending when final judgment is
15 entered, plus any additional time during which the statutes of limitation for
16 the causes of action alleged herein were tolled pursuant to Emergency Rule
17 9 of the California Rules of Court, the “Emergency Rules Related to
18 COVID-19.”

19 17. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
20 right to amend or modify the class definitions with greater specificity, by further division into
21 subclasses, and/or by limitation to particular issues. In addition, Plaintiff reserves the right to
22 pursue the cause of action for civil penalties under the Labor Code Private Attorneys General Act
23 of 2004 she intends to add by way of amendment in a representative capacity without complying
24 with Code of Civil Procedure § 382.

25 18. **Numerosity:** Class members are so numerous that the individual joinder of each
26 class member is impractical. While Plaintiff does not currently know the exact number of class
27 members, he is informed and believes and thereon alleges that the actual number exceeds the
28 minimum number required for numerosity purposes under Code of Civil Procedure § 382.

1 19. **Predominant Common Questions:** Common questions of law and fact exist as
2 to all class members and predominate over any questions that only affect individual class
3 members. These questions include, but are not limited to:

4 A. Whether **Plaintiff Class** members incur expenses such as home utility
5 costs and cellular telephone costs in direct consequence of discharging
6 their job duties to Defendants?

7 B. Whether Defendants, as a matter of policy or practice, fail to indemnify
8 **Plaintiff Class** members for the expenses they incur in violation of Labor
9 Code § 2802?

10 20. **Typicality:** Plaintiff's claims are typical of class members' claims in that
11 Defendants have policies and practices that violate the Labor Code as alleged herein that enable
12 her to seek the same relief as they could seek under the same theories of recovery and to which
13 Defendants may attempt to assert the same affirmative defenses.

14 21. **Adequacy of Representation:** Plaintiff will fairly and adequately represent and
15 protect the interests of class members in that she has no interests that are adverse to theirs and is
16 represented by counsel experienced in employment and wage and hour class action litigation.

17 22. **Superiority:** A class action is superior to other available means for fair and
18 efficient adjudication of class members' claims and offers significant benefits to the parties and
19 the court. A class action will allow a number of similarly situated persons to simultaneously and
20 efficiently prosecute their common claims in a single forum without the unnecessary duplication
21 of effort and expense that numerous individual actions would entail. The monetary amounts due
22 to many class members are likely to be relatively small, thus making it difficult, if not impossible,
23 for individual class members to seek and obtain relief. Moreover, a class action will serve
24 important public interests by enabling the non-waivable statutory rights of class members to be
25 effectively asserted, and fundamental public policies to be vindicated, in one proceeding. A class
26 action will also provide a means for vindicating the rights of current employees who are less likely
27 to come forward to assert those rights based on fears of employer reprisal. Finally, a class action
28 will prevent the potential for inconsistent or contradictory judgments inherent in individual

litigation and address the problems inherent in random and fragmentary enforcement.

FIRST CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code § 2802)

(By Plaintiff and the Plaintiff Class)

23. Plaintiff incorporates each of the preceding paragraphs of this Complaint by reference as if fully set forth herein.

24. Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses that he or she incurs in direct consequence of the discharge of her duties, or of the obedience of the employee to the employer's directions.

25. At relevant times during her employment with Defendants, Plaintiff incurred expenses as a result of working remotely without being indemnified by Defendants including, but not limited to, cellular telephone, utility, and Internet connection expenses.

26. Plaintiff is informed and believes and thereon alleges that Defendants, pursuant to a policy or practice, failed to indemnify **Plaintiff Class** members for expenses as a result of working remotely without being indemnified by Defendants including, but not limited to, cellular telephone, utility, and Internet connection expenses.

27. Pursuant to Labor Code § 2802(c), Plaintiff, on behalf of herself and the **Plaintiff Class**, seeks to recover unreimbursed expenses, interest thereon, and awards of reasonable attorney's fees and costs, all in amounts subject to proof at trial.

SECOND CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code § 2698 *et seq.*)

(By Plaintiff)

28. Plaintiff incorporates each of the preceding paragraphs of this Complaint by reference as if fully set forth herein.

29. During the applicable time period, Defendants violated Labor Code § 2802.

30. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of

1 themselves and other current or former employees, to bring a civil action to recover civil penalties
2 pursuant to the procedures specified in California Labor Code § 2699.3.

3 31. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and aggrieved
4 employees are entitled to recover civil penalties for each of the Defendants' violations of Labor
5 Code § 2802 during the applicable limitations period in the following amounts:

6 A. For violations of Labor Code § 2802, one hundred dollars (\$100.00) for
7 each aggrieved employee per pay period for each initial violation and two hundred dollars
8 (\$200.00) for each aggrieved employee per pay period for each subsequent violation (penalty
9 amounts established by California Labor Code § 2699(f)(2)).

10 32. Plaintiff has complied with the procedures for bringing suit specified in California
11 Labor Code § 2699.3. By letter dated October 6, 2022, Plaintiff filed written notice online with
12 the Labor and Workforce Development Agency ("LWDA") and gave written notice by certified
13 mail to Defendants of the specific provisions of the Labor Code alleged to have been violated,
14 including the facts and theories to support the alleged violations. Plaintiff accompanied her
15 LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to take action in response
16 within 65 calendar days of the date of Plaintiff's notice, but Plaintiff anticipates that the LWDA
17 will provide written notice to Plaintiff informing her that it does not intend to investigate these
18 allegations.

19 33. Pursuant to Labor Code § 2699(g), Plaintiff and the aggrieved employees are
20 entitled to an award of civil penalties, reasonable attorney's fees and costs in connection with
21 their claims for civil penalties.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, prays for
24 relief and judgment against Defendants as follows:

- 25 A. An order that the action be certified as a class action;
- 26 B. An order that Plaintiff be appointed class representative;
- 27 C. An order that counsel for Plaintiff be appointed class counsel;
- 28 D. Damages;
- E. Civil penalties;

- 1 F. Declaratory relief;
2 G. Pre-judgment interest;
3 H. Post-judgment interest;
4 I. Costs of suit;
5 J. Reasonable attorney's fees; and
6 K. Such other relief as the Court deems just and proper.

7 **DEMAND FOR JURY TRIAL**

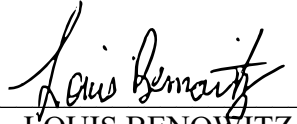
8 Plaintiff, on behalf of herself and all others similarly situated, hereby demands a trial by
9 jury on all issues so triable.

10 Respectfully submitted,

11 BENOWITZ LAW CORPORATION

12
13 Dated: March 6, 2023

14 BY



15 LOUIS BENOWITZ
16 Attorneys for Plaintiff
17 HASSNAA OUHAJ
18
19
20
21
22
23
24
25
26
27
28